

MEMORANDUM

DATE: March 30, 2007

TO: Ms. Sharon L. Summers, DSS
Policy, Program and Development Unit

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 10 DE Reg. 1401 [Proposed Food Stamp Employment & Training Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Social Services' (DSS) proposal to adopt some discrete amendments to its Food Stamp Employment & Training Program regulations. The impetus underlying the proposed amendments appears to be the Division's interpretation of federal commentary to regulations issued last summer. Attached please find an excerpt from 71 Fed. Reg. 33376-33384 (June 9, 2006). SCPD has the following observations.

First, the federal commentary does not justify the breadth of the proposed State restrictions placed on allowable services and supports. The federal commentary disallows "post-employment" services, i.e., services after acceptance of a job offer. The commentary explicitly authorizes services to obtain employment:

Based on the language in the Food Stamp Act and on the legislative history of the E&T Program, Congress clearly intended to limit the scope of the Program to preparing for and obtaining employment. Post-employment services were never part of the Program's mandate.

Since the E&T Program is defined by its components and all the components are designed to enable participants to obtain jobs, reimbursing the costs of goods and services associated with employment retention are beyond the scope of what can be allowed. Thus, FNS must limit participation reimbursements to those costs involved in successful component participation and disallow costs associated with starting and keeping a job once one has been offered.

In contrast, DSS proposes a sweeping exclusion for all services linked to obtaining employment!

Section 10007.3, in pertinent part, contains a categorical exclusion for such supports:

Services to obtain and keep employment are not an allowable reimbursement.

The words “obtain and” should be deleted.

Second, for similar reasons, complete deletion of Par. B is not required. The text could simply be revised to read as follows:

These services can include clothes that are appropriate for in-person applications and interviews.

Compare new Par. B, authorizing coverage of uniforms for training. There could be a dress code or specific clothing required for training activities (e.g. scrubs for CNA or LPN training). Moreover, clothing should also be covered for other pre-employment activities such as in-person applications and interviews.

Third, for similar reasons, complete deletion of Par. D is not required. Consider the following alternatives:

This service is only necessary when a participant’s dental condition poses a significant barrier to employability.

OR

This service is only necessary when a participant’s dental condition poses a significant barrier to training, in-person applications, and interviews.

OR

This service is only necessary when a participant’s dental condition poses a significant barrier to articulation or expressive communication in training, in-person applications, and interviews.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulations.

cc: Ms. Elaine Archangelo
Ms. Andrea Guest
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council